



**MILPITAS CITY COUNCIL MEETING AGENDA
MAY 2, 2006**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

SUMMARY OF CONTENTS

I. ROLL CALL (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

(1) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas v. Turner Construction et al., Santa Clara County Superior Court

Case No. 103CV815946 Consolidated with Case No. 103CV008400

(2) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

City of Milpitas vs. City of San Jose, Case No. CV046013, Santa Clara County Superior Court

(3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Pursuant to California Government Code Section 54956.9(a))

VCI Telecom, Inc. vs. City of Milpitas, Case No. 105CV051848, Santa Clara Co. Superior Court

III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Vice Mayor Gomez)

VI. APPROVAL OF MINUTES (April 18, 2006)

VII. SCHEDULE OF MEETINGS

VIII. PRESENTATIONS

Proclamations:

- Older Americans Month
- Bike to Work Month and Bike to Work Day - May 18, 2006
- Building Safety Week – May 7-13, 2006
- Water Awareness Month

Commendations:

- American Cancer Society's "Relay for Life" 2005 Event – Top Fundraisers and Sponsors
- Volunteer Income Tax Assistance (VITA)

IX. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

X. ANNOUNCEMENTS

XI. ANNOUNCEMENT OF CONFLICT OF INTEREST

XII. APPROVAL OF AGENDA

XIII. CONSENT CALENDAR (Items with Asterisks)

XIV. PUBLIC HEARINGS

- 1. Approve Major Tentative Map No. MA2004-3 and Zone Change No. ZC2004-1 for a five (5)-lot subdivision and rezone from Agriculture (A) to Single-Family Residential (R1-6), located at 2016 Calaveras Road (Staff Contact: Kim Duncan, 586-3283)**
- 2. Consideration of Alternative Draft Preferred Plan and Draft Preferred Plan – Reduced Residential for Transit Oriented Development in the Study Area Surrounding the Future Montague/Capitol Bart Station and Two Existing Valley Transportation Agency (VTA) Light Rail Line Stations (Staff Contact: Dennis Carrington, 586-3275)**

XV. UNFINISHED BUSINESS

- 3. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)**
- 4. Development System/Online Permitting Recommendations (Staff Contacts: Bill Marion, 586-2701 and Keyvan Irannejad, 586-3244)**
- 5. Waive First Reading and Introduce Ordinance 48.17 Amending Title V, Chapter 200, Section 3.20 of the Milpitas Municipal Code on Solid Waste Management (Staff Contact: Darryl Wong, 586-3345)**

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (April 18, 2006)

RA4. Approval of Agenda and Consent Calendar

RA5. Review Draft 2006-2011 Capital Improvement Program (CIP) Report (Staff Contact: Greg Armendariz, 586-3317)

RA6. Review and Consider the Proposed 2005-2010 Redevelopment Implementation Plan and Set a June 6, 2006 Public Hearing for Consideration of the Final 2005-2010 Implementation Plan (Staff Contact: Diana Whitecar, 586-3059)

RA7. City of Milpitas Financial Status Report for the Nine Months Ended March 31, 2006 (Staff Contact: Emma Karlen, 586-3145)

- * **RA8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended March 31, 2006**
(Staff Contact: Emma Karlen, 586-3145)
- * **RA9. Award Construction Contract: North Main Street Ground Abatement and Site Preparation, Project No. 8154** (Staff Contact: Jorge Bermudez, 586-3404)

RA10. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- 6. Approve Mayor's Recommendation for Donation to Student for Junior National Youth Leadership Conference Travel Expense** (Contact: Mayor Esteves, 586-3029)
- 7. Discussion of Past Compensation Increases for City and School District Employees**
(Contact: Mayor Esteves, 586-3029)
- 8. Requesting Resolution in Support of County Measure B, the Renewal of the Santa Clara County Park Charter** (Contact: Vice Mayor Gomez, 583-3031)

XVIII. NEW BUSINESS

- * **9. Accept Donation Of Funds For A Park Bench At The City Of Milpitas Dog Park And Approve Budget Appropriation; Park Renovation Plan, Project No. 5010** (Staff Contact: Mehdi Khaila, 586-3328)

XIX. ORDINANCE (see Unfinished Business)

XX. RESOLUTIONS

- * **10. Adopt Resolution Requesting the Allocation of Transportation Development Act, Article 3 Funds for School Safety Improvements Project** (Staff Contact: Jaime Rodriguez, 586-3335)
- * **11. Adopt a Resolution Authorizing the Public Works Director to Execute an Agreement with the State of California, Department of Transportation regarding South Park Victoria Drive Pavement Rehabilitation, Project No. 4225** (Staff Contact: Doug De Vries, 586-3313)

XXI. BIDS AND CONTRACTS

- * **12. Authorize Transfer of Real Property to Valley Transportation Authority, and Acceptance of Correctional Deeds from Valley Transportation Authority; Tasman Extension – Great Mall Parkway to I880, Project No. 4133** (Staff Contact: Greg Armendariz, 586-3317)
- * **13. Reject Bid Protest and Award Construction Contract: Berryessa Pump Station, Project No. 8138** (Staff Contact: Doug De Vries, 586-3313)
- * **14. Award the Bid for a Traffic Control System** (Staff Contact: Chris Schroeder, 586-3161)

XXII. CLAIMS AND DEMANDS (None)

XXIII. ADJOURNMENT

BUDGET HEARING MEETING, MAY 9, 2006, 6:00 P.M.

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MAY 16, 2006 AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION

at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:

Arts Commission

Bicycle Transportation Advisory Commission (alternate)

Planning Commission (alternate)

Mobile Home Park Rental Review Board (alternate)

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers.

Contact the City Clerk's Office (586-3003) for information.

AGENDA REPORTS

XIV. PUBLIC HEARINGS

- 1. Approve Major Tentative Map No. MA2004-3 and Zone Change No. ZC2004-1 for a five (5)-lot subdivision and rezone from Agriculture (A) to Single-Family Residential (R1-6), located at 2016 Calaveras Road (Staff Contact: Kim Duncan, 586-3283)**

Background: On February 22, 2006, the Planning Commission recommended approval to the City Council for a five (5)-lot subdivision and change of zoning from Agricultural (A) to Single-Family Residential (R1-6) for a .735-acre (.95 gross acre) parcel. The purpose for the subdivision and rezone is to allow the creation of five (5) lots where one (1) lot and 3 homes currently exist. As a part of the application, the Planning Commission adopted the associated Initial Study and Mitigated Negative Declaration (EA2005-8) and approved the removal of eight (8) ordinance-sized protected trees.

The proposed parcels range in size from 6,023 square feet to 6,740 square feet and would have lot widths exceeding the required minimum of 60 feet and have an average slope of 5%. The three (3) existing single-family residences will be demolished and, ultimately, five (5) new single-family houses would be constructed on the project site.

Access: Primary access to the project site is currently provided by three (3) driveways located off Calaveras Road. The applicant is proposing to remove the existing driveways and construct five (5) new driveways (net increase of 2) to provide access to each new parcel. In order to provide future residential property owners safe egress onto Calaveras Road, hammerhead driveways on each parcel are positioned to allow sufficient room for vehicles to turn around and exit onto Calaveras Boulevard without having to back out.

No-Build Zone: The project site is located adjacent to the Arroyo de Los Coches channel, which is part of a Santa Clara Valley Water District flood control drainage easement. The creek bed and slopes are reinforced with rock slope (gabion) protection. The proposed rear yards of the five (5) parcels would have an average depth of 32 feet and consist of a 15-foot setback, as measured from the building footprint, with the remainder (minimum 10 feet) consisting of the Los Coches creek top-of-bank and slopes. To ensure creek slope stability, the 15-foot rear setback from the building footprint would be designated as a “no build zone” for structures, such as pools and accessory buildings, near the creek top-of-bank.

SCVWD Easement: The project site is bound to the south by a SCVWD Flood Control/Drainage Easement, however an approximately 156 square foot rectangular shaped portion of property (at the rear property line of Lot 1 extending behind the parcel located at 2004 Calaveras Road) was not dedicated to SCVWD for flood drainage purposes. This 156-square foot portion of property will be dedicated to the SCVWD as flood control easement to create consistency with the existing flood control/drainage easement.

Protected Trees: Since Planning Commission approval, the applicant has continued to work with staff and, as shown on the modified Tentative Map, is proposing to retain or relocate five (5) protected olive trees (Nos. 2, 3, 4, 5, and 7) on site. As such, the conditions of approval have been modified to reflect this change.

Other Improvements: As required by the City’s Subdivision Ordinance, the applicant will install necessary public improvements along Calaveras Road, including curb, gutter, pavement, sidewalks, striping, streetlights, and underground existing services, as well as pay the required park-in-lieu fee.

Recommendations:

1. Close the public hearing.
2. Approve the Major Parcel Map No. MI2004-3 and Zone Change No. ZC2004-1 subject to the attached Findings and Special Conditions.

2. Consideration of Alternative Draft Preferred Plan and Draft Preferred Plan – Reduced Residential for Transit Oriented Development in the Study Area Surrounding the Future Montague/Capitol BART Station and Two Existing Valley Transportation Agency (VTA) Light Rail Line Stations (Staff Contact: Dennis Carrington, 586-3275)

Background: On November 16, 2004, the City Council directed the City Manager to negotiate a contract with the firm of Dyett & Bhatia to prepare Phase I of the Transit Area Plan for a ±400 acre area surrounding two VTA Light Rail Stations and the Future Montague / Capitol BART Station. Phase I entailed the conducting of a community visioning exercise and the preparation of preliminary concept plans. As a result of Stakeholder interviews and two design charrettes, Dyett and Bhatia completed three draft alternative concept plans that were presented to the Planning Commission on March 23, 2005. The Planning Commission recommended that two alternative concept plans be forwarded to the City Council for approval. The City Council adopted the two concept plans as recommended by the Planning Commission.

The “Concept Plan” proposed a “Retail Mixed-Use” category (dark pink on the attached plan) area opposite the Great Mall, four residential subareas and the Great Mall subarea. The “Alternative Concept Plan” differed from the “Concept Plan” only in that it proposed a “High Density Mixed Use” category (orange on the attached plan opposite the Great Mall). The Concept Plan had more of an emphasis on retail (although it had more dwelling units) and the Alternative Concept Plan had an emphasis on high density residential. As part of this action, the City Council directed staff to initiate Phase II of the Transit Area Specific Plan with the two alternatives. Phase II includes preparation of the specific plan and EIR.

On July 5, 2005, the City Council authorized the City Manager to negotiate a contract with the firm of Dyett and Bhatia, Urban and Regional Planners, to prepare Phase II of the Transit Area Specific Plan.

Staff has worked with Dyett and Bhatia since the initiation of Phase II to interview stakeholders again where necessary and refine and revise the two concept plan alternatives selected by the City Council. In moving towards development of the specific plan, staff and the consultant have developed a more detailed land use plan, prepared a market analysis study, fiscal impact analysis, traffic study and infrastructure study. However, prior to proceeding further, staff is seeking direction on one of the two following plans.

Alternatives:

The **Draft Preferred Plan** proposes 7,185 new residences, 813,343 square feet of new office, 175,500 square feet of new hotel use and 520,026 square feet of new retail.

The **Draft Preferred Plan – Reduced Residential Alternative** proposes 5,601 new residences, 762,732 square feet of new office, 175,500 square feet of new hotel use and 470,795 square feet of new retail.

These two alternatives are described in detail in the attached report from Dyett and Bhatia. The report addresses the original concept plans, the results of a market analysis for the study area, fiscal issues, sewer and water capacity, traffic analysis, BART station design and line layout, railroad lines in the Piper Montague area, school demand, park needs and requirements, public safety services, and environmental issues.

Upon City Council selection of a preferred plan, staff will proceed with completing the remaining work on the specific plan and EIR. The attached report recommends greater land use flexibility on Montague than the adopted concept plans, higher residential densities on parcels adjacent to

BART, and a retail strategy to ensure the viability of the project and minimize fiscal impacts to the City. The plan further allows for two hotel sites, a grocery store site, a mixed residential and retail orientation for the McCandless Drive area and reduced R&D uses.

Staff recommends that the Draft Preferred Plan be selected by the City Council for several reasons: the greater number of residential units (7,185 vs. 5,601) will allow for higher density housing adjacent to the new BART station, will better support the retail uses that are necessary for the plan to meet the fiscal needs of the City and, if the project were to clear 7,185 units in EIR, it would allow Milpitas to be better prepared to meet market demands for residences than would occur if only 5,601 units were cleared in the EIR.

If the City Council selects the alternative for staff to use as a basis for the Transit Area Specific Plan, the work plan calls for several tasks to be pursued including: Specific Plan, General Plan Amendment, Environmental Impact Report, Zoning Ordinance revision, Streetscape Master Plan and infrastructure analysis.

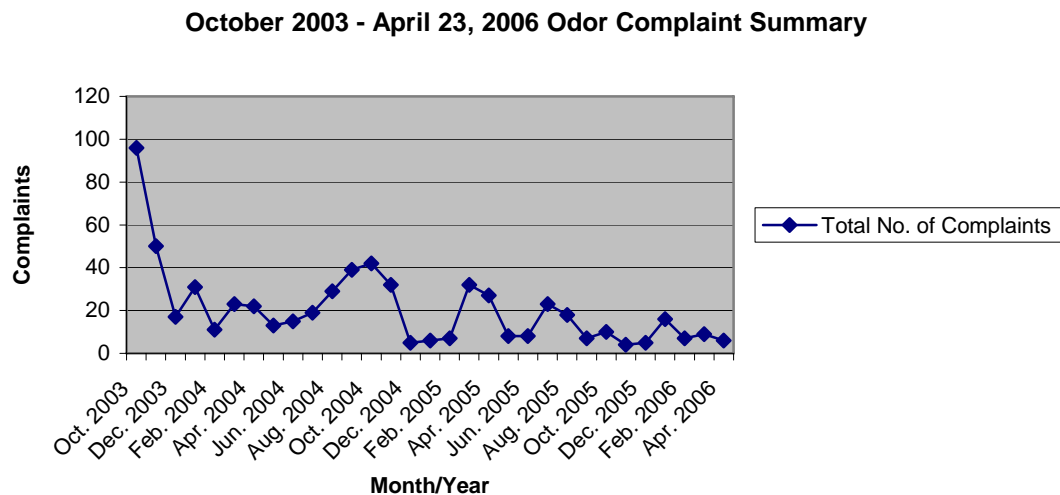
Recommendations:

1. Close the public hearing.
2. Provide staff direction on whether to continue work on the **Draft Preferred Plan** or the **Draft Preferred Plan - Reduced Residential Alternative**.

XV. UNFINISHED BUSINESS

3. Odor Control Comprehensive Action Plan Update (Staff Contact: Darryl Wong, 586-3345)

Background: The Bay Area Air Quality Management District (BAAQMD) Rapid Notification system continues to e-mail real-time odor complaint advisories to potential odor sources and City staff. Complaints, consisting primarily of odors from a combination of neighborhood sources (cooking, restaurant smells) and compost, have remained low as shown in the graph below.



Recommendation: Receive oral progress report.

4. Development System/Online Permitting Recommendations (Staff Contacts: Bill Marion, 586-2701 and Keyvan Irannejad, 586-3244)

Background: Last year staff presented a proposal to move forward with an Online Permitting/Development System project. The focus of this project was two-fold, to provide an online permitting capability and to support the process improvement initiatives. This process began with a review of permitting systems in use with other jurisdictions followed by a requirements definition involving the Building, Planning, Engineering, Fire Prevention and Finance Departments. Based on this effort a Request for Proposal (RFP) was drafted and released on October 10, 2005. A major concern is the projected increase in permitting activity. Based on planned or in progress developments, Building staff estimates that over the next 2 years they will issue in excess of 60,000 permits. This is equivalent to all permits issued from 1988 through 2001. Staff reviewed the proposals and selected a system that best met the City's requirements.

A fixed 5-year cost for the system was calculated along with projected permitting and development fees for the same period in order to determine the required cost recovery over the life of the system. This resulted in a 3.1% permitting automation fee. The recovery period could be extended to six years with a 2.7% fee or seven years with a 2.5% fee. It is suggested that the Capital Contingency Reserve be used to fund the initial purchase and installation of the system. The automation fee would then replenish the Capital Contingency Reserve over time.

The proposed system will provide a higher level of service to citizens, developers and builders justifying the automation fee. Information will be more readily and quickly available, reducing applicant turn-around time. With the efficiencies gained, it is expected that existing staffing levels would be sufficient to handle the projected increase in workload. Staff will make a brief presentation and be available for questions.

Recommendations:

1. Direct staff to return with the implementing language for a permitting automation fee effective July 1, 2006, in an amount of 3.1%, 2.7% or 2.5%.
2. Approve the creation of a Capitol Improvement Project (C.I.P.) to implement an Online Permitting Development System and approve the transfer of \$500,000 from the Capital Contingency Reserve for project funding.
3. Award bid to CRW Associates for an automated development system.

5. Waive First Reading and Introduce Ordinance 48.17 Amending Title V, Chapter 200, Section 3.20 of the Milpitas Municipal Code on Solid Waste Management (Staff Contact: Darryl Wong, 586-3345)

Background: The Milpitas Municipal Code (Code) specifies that the owner of a premise shall subscribe to and pay for City utilities, including solid waste and water services. The Code allows the City to discontinue water service for the nonpayment of any solid waste collection charges. Discontinuance of water service for nonpayment has been a very effective mechanism to assure proper and timely utility service payment.

The City has some accounts where a common water meter serves several residents. For these cases, water bills are paid by an agent that represent the residents (such as a Home Owners Association), while solid waste bills are paid by the individual residents. The City has not discontinued water service for delinquent solid waste payments from these accounts, since such stop service would penalize not only the delinquent resident but also residents who have properly paid their bill. We have also found instances whereby new residents on common water accounts use solid waste services, but are not billed for the service since no move-in notification was provided to the City (this occurs since the resident does not have to start a water service account).

This proposal is to revise Chapter 200, Title V, on Solid Waste Management, to require all residents with common water meters to have the same agent who pays the water bill also pay the solid waste bill. This change, which would apply only to new accounts, would help insure proper solid waste payment from new residents on common water meters, and permit the City to stop water service to an account due to water and/or solid waste nonpayment.

A copy of the proposed ordinance is included in the Council's packet. Staff recommends the introduction of the ordinance.

Recommendations:

1. Waive the first reading beyond the title.
2. Introduce Ordinance 48.17 amending Chapter 200 of Title V, Section 3.20 of the Milpitas Municipal Code regarding solid waste management, subject to approval as to form by the City Attorney.

XVI. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. Call to Order by the Mayor/Chair

RA2. Roll Call

RA3. Approval of Minutes (April 18, 2006)

RA4. Approval of Agenda and Consent Calendar

RA5. Review Draft 2006-2011 Capital Improvement Program (CIP) Report (Staff Contact: Greg Armendariz, 586-3317)

Background: The Draft 2006-2011 Capital Improvement Program (CIP) Annual Report has been prepared by staff and was distributed to Council on April 7, 2006. The projects are arranged into six main categories: Community Improvements, Parks, Streets, Water, Sewer, and Storm Drain. The document includes a summary by these categories, and individual proposed project descriptions. Previously funded projects are also summarized in a separate section.

Only funding in the first year (2006-07) of the five-year CIP will be appropriated in the upcoming budget. The total cost of these appropriations is \$55 million including \$33.7 million for the Library project. The appropriations listed in subsequent years are shown for planning purposes and do not receive expenditure authority until approved by Council at a later time. Planned appropriations for projects in the five-year CIP over the next five years total \$99 million.

The Parks and Recreation projects were reviewed and approved by Parks, Recreation and Cultural Resources Commission on March 6, 2006. The Draft CIP Annual Report was to be presented to the Planning Commission on April 12, 2006, and the Commission found the CIP document in conformance with the General Plan.

Draft CIP highlights will be provided by staff at the Council meeting. Based upon Council direction, the Proposed CIP will be prepared. The Proposed CIP will then be presented to Council for approval at the budget session on May 9, 2006. Once the Proposed CIP is approved, the budget appropriations scheduled therein for Fiscal Year 2006-07 will take effect July 1, 2006. The Final CIP will be submitted to Council in September after the Finance Department has closed out Fiscal Year 2005-06.

Recommendation: Review and provide staff with direction and comments on the five year Draft 2006-2011 CIP.

RA6. Review and Consider the Proposed 2005-2010 Redevelopment Implementation Plan and Set a June 6, 2006 Public Hearing for Consideration of the Final 2005-2010 Implementation Plan (Staff Contact: Diana Whitecar, 586-3059)

Background: California Community Redevelopment Law (CRL) requires redevelopment agencies to adopt an Implementation Plan every five years. The purpose of the Implementation Plan is to set goals and objectives that will guide efforts to eliminate blight over the next five years and estimate the revenues and expenditures anticipated by the Agency in the five year period. The Plan contains an affordable housing section to help the Redevelopment Agency monitor progress in meeting the community's affordable housing needs. The Implementation Plan also provides an overview of accomplishments of the previous five-year period.

Staff made an initial presentation on the proposed Implementation Plan (Exhibit A) at the March 7th meeting. At that time, Council requested additional time for review, asking that the item be heard again on April 18th.

The Milpitas Redevelopment Agency adopted its first Five Year Implementation Plan in 1994 when CRL was amended to require Implementation Plans. A new Five Year Implementation Plan was approved in 2000 and it is now time to adopt the third Milpitas Redevelopment Agency Five Year Implementation Plan. In addition to adopting the Five Year Plan, CRL requires that a mid-cycle public hearing be held in order to better evaluate the success of the local redevelopment program.

Based on the assumptions of 6% growth for FY 2006-07, 5% growth for FY 2007-08 and 4% growth for the following years, it is anticipated over the next five years that the Agency will receive a total of \$152 million in property tax revenues, known as tax increments. Of that, 20% or \$30 million will be set aside for Low and Moderate Housing. The remaining tax increment funds of \$122 million, combined with interest income over the five years, provides the Agency nearly \$130 million for its 80% programs and operations. Table B in the proposed Implementation Plan illustrates the revenue and expenditure projections in more detail.

While this tax increment growth is positive, projected annual expenditures for operations, bond debt payments and legislated pass-throughs to other taxing entities and funding the approved 2005-2010 Capital Improvement Program requires the Agency utilize all of the existing its existing fund balance and bond proceeds. Based on these projections, at the end of the five year period, the 80% fund will have used its reserves and have a \$1.0 million shortfall.

The 20% Housing Set Aside Program will likely end the five-year period with approximately \$18 million in its fund balance. However, it is incumbent upon staff to recommend use of these funds, as accumulation of Housing Set Aside funds is inconsistent with the goals of CRL.

Over the last five years, well over half of the 80% redevelopment funds have been used to upgrade the City's storm drain, sewer and water systems, improve local streets and traffic signals as well as substantially contributing to the construction of critical freeway improvements. The remaining redevelopment funds were used to make substantial and critical community and parks improvements. Staff will give a brief overview of these accomplishments at the meeting.

Recommendation: That the Redevelopment Agency Board provide direction to staff in the preparation of the final 2005-2010 Redevelopment Implementation Plan and schedule a June 6, 2006 Public Hearing for the Plan.

RA7. City of Milpitas Financial Status Report For The Nine Months Ended March 31, 2006 (Staff Contact: Emma Karlen, 586-3145)

Background: As of March 31, 2006, City departments are on track with their operating expenditures and even achieved a small amount of savings despite funding at the 95% level. Total General Fund operation expenditures were at 71.34% after nine months.

Current year's General Fund revenues are projected to be better than original estimate due to the improved economy and receipt of one-time revenues. As reported in February 2006, the State repaid approximately \$1.1 million motor vehicle in-lieu tax that was owed to the City from FY 2003-04. In addition, the City sold the former City Manager's home and received return of its contribution for approximately \$661,000.

Property tax revenues was above budget by about 4% while sales tax revenue was under budget by 1%, although both revenues were above what the City received last year. Other revenues such as building permits and charges for services (primarily Planning and Engineering fees) also experienced increases over last year due to activities from several major residential and commercial developments. Using trend analysis and excluding one-time revenues mentioned above, staff projected that total General Fund revenue would be about 5.8% or \$2.6 million over original estimate.

In the current fiscal year, the Council approved a transfer of \$6.1 million from the Redevelopment Agency to close the General Fund budget gap. That \$6.1 million represents the first installment payment of the purchase costs for acquiring eight City properties by the Agency. Staff estimated that with the improved economy and the one-time revenues, the General Fund would only need approximately \$1 million to close the budget gap this year. During the budget planning workshop on March 14, 2006, staff recommended deferring the remaining amount to FY 2006-07 as one of the strategies to balance next year's General Fund budget.

Recommendation: Receive staff report.

***RA8. City of Milpitas Investment Portfolio Status Report for the Quarter Ended March 31, 2006 (Staff Contact: Emma Karlen, 586-3145)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended March 31, 2006 is submitted for your review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of March 31, 2006.

As of March 31, 2006, the principal cost and market value of the City's investment portfolio was \$243,164,643 and \$240,936,983 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended March 31, 2006 was 3.20%. The comparative benchmarks for the same period were 3.89% for LAIF (Local Agency Investment Fund) and 4.18% for the 12-month average yield of the 2-year Treasury Note. Excluding the

long-term GNMA securities and Repurchase Investment Agreement, the weighted average maturity of the portfolio was 344 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

Recommendation: Note receipt and file investment report for the quarter ended March 31, 2006.

*** RA9. Award Construction Contract for the North Main Street Ground Abatement and Site Preparation, Project No. 8154 (Staff Contact: Jorge Bermudez, 586-3404)**

Background: On March 7, 2006, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This phase of the project includes removal of contaminated soil at the proposed library and Midtown East parking garage site on N. Main Street. The first phase of this project, which is complete, removed hazardous building materials and buildings from the site along with select demolition of material within the historic Grammar School. This project will remove pesticide-contaminated soil in the crawl-space areas of the school building and arsenic and lead contaminated soil from the northeast corner of the site that was formerly a petroleum-processing yard.

The project was advertised, three pre-bid meetings were held at the site, and bidding was extended to allow contractors to receive sub-bids and bonding.

Five sealed bid proposals were opened on April 24, 2006. The bid proposals ranged from \$234,210.04 to \$571,500. The lowest responsible bid of \$234,210.04 was received from Clean Harbors Environmental Services, Inc. This bid is approximately 41 percent below the Engineer's estimate of \$400,000. The bid proposals contained minor irregularities, such as providing the percentage of subcontract work as the percentage of the bid item rather than of the total. This type of minor error does not change the bid amount or the subcontractors, and may be waived by the City Council. The City Attorney concurs with this recommendation.

This preliminary work is being done with the intent to discover and eliminate hazardous conditions and as many unknown field conditions as possible that could be detrimental to the overall construction of the library and garage. Therefore, and in the interest of time, staff is requesting an additional change order authorization of \$30,000, beyond the normal 15% change order council policy that may be authorized by staff.

Recommendation:

1. Waive minor bid irregularities and award Construction Contract to Clean Harbors Environmental Services, Inc. in the amount of \$234,210.04, subject to review by the City/Agency Attorney
2. Approve a staff authorization of change order approval of \$30,000.

RA10. Agency Adjournment

XVII. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

6. Approve Mayor's Recommendation for Donation to Student for Junior National Youth Leadership Conference Travel Expense (Contact: Mayor Esteves, 586-3029)

Background: Mayor Esteves received a request for a donation to Milpitas student Quy Hoa Le, who was selected to attend a Washington, D.C. conference for the Junior National Youth Leadership Conference. Le is a Weller Elementary school student, age 11 and in the 5th grade.

If approved, funding would be allocated from the City Council's unallocated Community Promotions section of the current Fiscal Year budget.

Recommendation: Approve the Mayor's recommendation of a donation in the amount \$500.00 to student Quy Hoa Le, in to order to help defray registration and travel costs for attendance at the Junior National Youth Leadership Conference in Washington, D.C. later this year.

7. Discussion of Past Compensation Increases for City and School District Employees (Contact: Mayor Esteves, 586-3029)

Background: At prior City Council meetings, there was some discussion as to the comparable percentage increase of compensation for city and school district employees. A chart will be presented to clarify the City Council's earlier discussions regarding the increases from past years.

Recommendation: Hear report of Mayor Esteves.

8. Requesting Resolution in Support of County Measure B, the Renewal of the Santa Clara County Park Charter (Contact: Vice Mayor Gomez, 583-3031)

Recommendation: Adopt Resolution in support of County Measure B, the Renewal of the Santa Clara County Park Charter.

XVIII. NEW BUSINESS

*** 9. Accept Donation Of Funds For A Park Bench At The City Of Milpitas Dog Park And Approve Budget Appropriation; Park Renovation Plan, Project No. 5010 (Staff Contact: Mehdi Khaila, 586-3328)**

Background: Ms. June Edwards, a Milpitas resident, has offered to donate a bench to be placed at the City of Milpitas Dog Park, located at Ed. R Levin County Park. The bench will consist of a 12" X 4" plaque to read "In Memory of Betty Johnson and Len Latasor."

Staff has estimated the cost of a bench (consistent with other City Park benches) to be \$129.00. Ms. Edwards will provide the plaque and a check, in the amount of \$129.00 to City of Milpitas, to cover the cost of the bench.

Sufficient funds are available in the project budget for this purchase. A budget appropriation in the amount of \$129.00 to the Park Renovation Plan, CIP 5010 budget is required for the purchase of this bench.

Recommendation:

1. Accept monetary donation of \$129.00 from Ms. June Edwards.
2. Approve a budget appropriation for \$129.00 into the CIP 5010 account.
3. Approve purchase of a park bench in the amount of \$129.00 from CIP 5010 account.

XIX. ORDINANCE – See Unfinished Business

XX. RESOLUTIONS

- * 10. **Adopt Resolution Requesting the Allocation of Transportation Development Act, Article 3 Funds for School Safety Improvements Project (Staff Contact: Jaime Rodriguez, 586-3335)**

Background: The City of Milpitas receives guaranteed funding from the Transportation Development Act Article 3 fund each year for sidewalk and bicycle projects. The guaranteed funding is based on population; the 2006-07 guaranteed funding for Milpitas is \$51,307.

Staff has submitted a grant proposal to the Valley Transportation Authority for the release of this funding for a School Safety Improvements project. The project will include the deployment of ADA pedestrian ramps and high-visibility pedestrian crossings including enhanced signage, roadway markings and technology improvements. The locations of improvements will be determined later.

Recommendation: Adopt a Resolution Requesting the Allocation of Transportation Development Act, Article 3 Funds for a School Safety Improvements Project.

- * 11. **Adopt a Resolution Authorizing the Public Works Director to Execute an Agreement with the State of California, Department of Transportation regarding South Park Victoria Drive Pavement Rehabilitation, Project No. 4225 (Staff Contact: Doug De Vries, 586-3313)**

Background: Staff is working to secure Federal Surface Transportation Program (STP) Funding to improve South Park Victoria Drive between Calaveras Boulevard and Yosemite Drive, and Calaveras Boulevard between Park Victoria Drive and I-680 on/off ramp east. This project will provide pavement improvements for these sections of streets. The amount of available STP Funding which the City can secure for this project is \$1,195,000. To implement this project, it is necessary to adopt a Resolution authorizing the Public Works Director to execute an agreement with the State of California for Federal Surface Transportation Program Funding for So. Park Victoria Drive Pavement Rehabilitation.

Recommendation: Adopt a Resolution Authorizing the Public Works Director to Execute the Agreement with the State of California.

XXI. BIDS AND CONTRACTS

- * 12. **Authorize Transfer of Real Property to Valley Transportation Authority, and Acceptance of Correctional Deeds from Valley Transportation Authority; Tasman Extension – Great Mall Parkway to I-880, Project No. 4133 (Staff Contact: Greg Armendariz, 586-3317)**

Background: This project is included in the approved Capital Improvement Program (CIP), and provided for the widening of Tasman Drive and Great Mall Parkway from I-880 Interchange to the City limit southerly of Montague Expressway and the construction of other related light rail transit improvements for the Valley Transportation Agency (VTA). The City of Milpitas acquired the right of way for VTA's substation as part of Tasman Drive extension project. The substation construction has been completed and the light rail is in operation along Tasman Drive and Great Mall Parkway. In accordance with the Agreement for Sale of Real Property dated April 1, 1994 between the City of Milpitas and the County of Santa Clara, VTA has requested that the City of Milpitas grant VTA the parcel currently occupied by VTA's substation which is approximately 4,465 square feet. Staff has reviewed the grant documents and recommends the execution of the transfer deed.

On July 6, 2000, Council approved the grant of right-of-way and easements within Great Mall Parkway to VTA. VTA has found some minor discrepancies in four of the previously granted right of way and easement documents. The plats and descriptions have been corrected. Staff has reviewed the related documents and recommends the execution of the correctional deeds.

Recommendation:

1. Authorize the City Manager to convey the deeded parcel for the VTA substation to VTA.
2. Authorize the City Manager to accept correctional deeds from the VTA.

*** 13. Reject Bid Protest and Award Construction Contract for the Berryessa Pump Station, Project No. 8138 (Staff Contact: Doug De Vries, 586-3313)**

Background: This project is part of the approved five-year Capital Improvement Program (CIP). The Berryessa Storm Pump Station is located at Hidden Lake Park and provides drainage for portions of the City bounded by Calaveras Blvd. (on the south), Wrigley Creek (on the west), Jacklin Rd. (on the north), and Hwy. 680 (on the east). This project provides replacement of three diesel engines, engine and station controls and electrical systems at the Berryessa Storm Pump Station. This pump station is 24 years old and needs to be rehabilitated. The three engines have exceeded their design (or useful) life. This project includes replacement of the existing 7.5 HP with a 50 HP jockey pump to efficiently pump low flows during dry weather with an electric variable speed jockey pump rather than the large pumps that are more costly to operate. Work also includes replacing the existing roof, painting the station, installation of flap-gates on creek discharge pipes and retrofitting of vent pipes per the Storm Drain Master Plan.

On May 17, 2005, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. The Engineer's estimated construction cost is \$600,000-\$700,000.

The project was advertised and sealed bid proposals were opened on April 21, 2006. The bid proposals ranged from \$582,315 to \$651,455, and the lowest responsible bidder is determined to be Anderson Pacific Engineering Construction Inc. Sufficient funds are available in the project budget to award this project.

On April 24, 2006, the City received a bid protest from the second lowest bidder, Power Engineering Contractors. The bid protest claimed "Anderson Pacific failed to complete the bid proposal documents as prescribed. Page twenty of the proposal (Schedule of Values) reads, "A cost breakdown (Schedule of Values) of the lump sum Base Bid price is mandatory"" Staff spoke with Power Engineering to ensure that the basis for their protest was properly understood. Power Engineering had not taken note that addendum two allowed the bidders three working days to submit the Schedule of Values. Anderson Pacific submitted their schedule of values within the timeframe required and has satisfied the bid requirements. Staff and the City Attorney's office have reviewed the bidders' submittals, considered all the information, and found that the bid protest was found to have no merit. The low bidder's proposal was found to be responsive. Staff therefore recommends rejection of the bid protest.

Recommendation: Reject bid protest and award construction contract to Anderson Pacific Engineering Construction in the amount of \$582,315.

*** 14. Award the Bid for a Traffic Control System (Staff Contact: Chris Schroeder, 586-3161)**

Background: On March 31, 2006, staff went out for bids for a four (4) camera video detection traffic control system. Bids were advertised in the Post, mailed to five vendors on the City's vendor data base, and posted on the City's website. One vendor responded: Iteris for \$59,477.96. (There are sufficient funds available in Capital Improvement Project No. 4229, 2006 Resurfacing Project, for this work.)

Recommendation: Award the bid for a Traffic Control System to Iteris for the not to exceed amount of \$59,477.96.

XXII. CLAIMS AND DEMANDS (NONE)

XXIII. ADJOURNMENT

BUDGET HEARING MEETING, MAY 9, 2006, 6:00 P.M.

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MAY 16, 2006, AT 7:00 P.M.**